

REMARKS

Favorable reconsideration of this application, in light of the following discussion and in view of the present amendment, is respectfully requested.

Claims 1, 18, and 21 have been amended. Claims 1 and 18 have been amended only in order to improve the form. Non-elected claims 4-7, 14-17 and 19 were previously withdrawn. Claims 1-21 are pending and under consideration. This amendment is believed to place the application in condition for allowance, and entry therefore is respectfully requested. In the alternative, entry of this amendment is requested as placing the application in better condition for appeal by, at least, reducing the number of issues outstanding.

Entry of Amendment under 37 C.F.R. § 1.116

The Applicant requests entry of this Rule 116 Response because the Examiner has newly cited a reference not previously made of record in rejecting the claims and the amendment does not significantly alter the scope of the claims and places the application at least into a better form for purposes of appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures (M.P.E.P.) sets forth in Section 714.12 that “any amendment that would place the case either in condition for allowance or in better form for appeal may be entered.” Moreover, Section 714.13 sets forth that “the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified.” The M.P.E.P. further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

I. Allowable Subject Matter

In the Office Action, at page 2, numbered paragraph 3, claims 1-3, 8-13, 18, and 20 were indicated as allowed. Claims 1 and 18 have been amended only in order to improve the form. Specifically, the term “frame” in each of claims 1 and 18 has been amended to recite the term “flame” in order to be consistent with the wording of each of these claims.

Certain patentable features of allowed claim 20, as indicated by the Examiner, have been incorporated into amended independent claim 21, as discussed below.

II. Rejections under 35 U.S.C. § 102

In the Office Action, at page 2, numbered paragraphs 1-2, claim 21 was rejected under 35 USC § 102(e) as being anticipated by Autruong (U.S. Patent No. 5,150,368).

Autruong does not discuss or suggest "a determination unit determining whether or not said identifier stored in a predetermined position in each of the plurality of wavelength components is normal," as recited in amended claim 21. Autruong, as relied on by the Examiner, merely discloses a method for modem-to-modem communication, whereby the acknowledgement of a correctly received data packet is confirmed by *comparing* a currently received checksum to a previously received checksum. In contrast, the invention of claim 21 provides a determination unit for *determining* whether or not an identifier stored in a predetermined position in each of the plurality of wavelength components is normal.

Since Autruong does not discuss or suggest "a determination unit determining whether or not said identifier stored in a predetermined position in each of the plurality of wavelength components is normal," as recited in amended claim 21, claim 21 patentably distinguishes over Autruong. Accordingly, withdrawal of this § 102(e) rejection is respectfully requested.

CONCLUSION

Claims 1-21 are pending and under consideration.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.


Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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